

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Nathan Bianco

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Ryan Kerbow, Esq., Bernstein and Poisson LLP, 320 S. Jones
Boulevard, Las Vegas, NV 89107

DEFENDANTS

Target Corporation

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Alan W. Westbrook, Esq., PERRY & WESTBROOK, 1701 W.
Charleston Boulevard #200, Las Vegas, Nevada 89102

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) _____ ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1441

Brief description of cause:

Premises liability slip and fall

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

ALAN W. WESTBROOK, ESQ.
Nevada Bar No. 006167
PERRY & WESTBROOK,
A Professional Corporation
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Las Vegas, Nevada 89102
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Attorney for Defendant Target Corporation

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NATHAN BIANCO, an individual

Plaintiff,

vs.

TARGET CORPORATION, a foreign
corporation; DOES 1 through 100; and ROE
CORPORATION 101 through 200, inclusive

Defendant(s).

CASE NO.:

**DEFENDANT TARGET
CORPORATION'S PETITION FOR
REMOVAL AND DEMAND FOR JURY
TRIAL**

**DEFENDANT TARGET CORPORATION'S PETITION FOR REMOVAL AND
DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Defendant TARGET CORPORATION, by and through its attorney Alan W. Westbrook, Esq. of PERRY & WESTBROOK, a Professional Corporation, hereby removes this action from the Eighth Judicial District Court of the State of Nevada, in and for Clark County, Nevada, to the United States District Court for the District of Nevada, pursuant to Section 1441 of Title 28 of the United States Code (Diversity of Citizenship).

This removal of this action is based upon the following:

1 1. This action is a civil action within the meaning of Acts of Congress relating to
2 removal of cases.

3 2. Plaintiff Nathan Bianco filed a Complaint for damages in the Eighth Judicial
4 District Court, in and for Clark County, Nevada (the State Court). The State Court assigned this
5 matter number A-20-815180-C. The Complaint alleged a cause of action for negligence against
6 Defendant (a copy of the original Complaint is attached as Exhibit A).

7 3. The Complaint filed alleges damages “in a sum in excess of \$15,000.00.”

8 4. Plaintiff’s counsel submitted a correspondence dated December 17, 2019, in
9 which the injuries of Plaintiff were described as persistent bilateral knee pain and cervical spine
10 pain. The Plaintiff underwent MRI studies of the right knee and cervical spine, as well as nerve
11 conduction studies. Treatment included PRP injections to both knees. The medical special
12 damages related to the medical treatment amounted, at that time, to \$26,781.65. Plaintiff further
13 asserted that the injuries sustained had interfered greatly with his responsibilities and overall life
14 enjoyment and that he continued to suffer at the time of the correspondence. The Plaintiff
15 concluded the letter by demanding an amount many times the \$75,000.00 jurisdictional threshold
16 of this Court’s jurisdiction. Plaintiff’s counsel was requested to stipulate that the amount in
17 controversy would be less than the \$75,000.00 threshold, however, this request was denied.

18 5. Removal to this Court is based upon the receipt of the Complaint, the Plaintiff’s
19 counsel’s demand letter, and the provided medical records and bills. See 28 U.S.C. § 1446(b)(1)
20 The Defendant was served with the Complaint , by service on their resident agent on June 5,
21 2020, and therefore, this Petition is filed within 30 days after receipt by the defendant, through
22 service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which
23 such action or proceeding is based.

1 6. This Court has original jurisdiction over the claims alleged here for the reasons
2 set for below:

3 a. According to the Complaint Plaintiff is, and was at all times relevant, a
4 resident of Clark County, Nevada.
5

6 b. Defendant, Target Corporation, is incorporated in Minnesota, with its
7 principle place of business in Minnesota.

8 c. Based upon the Plaintiff's counsel's letter, description of injuries, the
9 continuation of the suffering of Plaintiff, and the incurred medical expenses of \$26,781.65.
10

11 d. The State Court action is a civil action between citizens of different States,
12 and the matter in controversy exceeds \$75,000.00, exclusive of costs and interest. The District
13 Court has original jurisdiction over the matter pursuant to 28 U.S.C., Section 1332.

14 7. Defendant served a copy of this Notice of Removal on June 25, 2020, by filing a
15 Notice of Removal with the State Court and having it electronically served through the Court
16 filing system.
17

18 8. Defendant respectfully demands a trial by jury of the above-captioned matter.

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1 WHEREFORE, Defendant hereby removes the State Court Action pending as Case No.
2 A-20-815180-C in the Eighth Judicial District Court of the State of Nevada, in and for Clark
3 County, Nevada, to this Honorable Court.

4
5 DATED this 25th day of June, 2020.

6 PERRY & WESTBROOK
7 A Professional Corporation

8 /s/ Alan W. Westbrook

9 ALAN W. WESTBROOK, ESQ.
10 Nevada Bar No. 6167
11 1701 W. Charleston, Suite 200
12 Las Vegas, Nevada 89102
13 Telephone: (702) 870-2400
14 Facsimile: (702) 870-2880
15 Email: awestbrook@perrywestbrook.com
16 *Attorney for Defendant Target*

17
18 **CERTIFICATE OF SERVICE**

19 I HEREBY CERTIFY that on the 25th day of June, 2020, a true and correct copy of the
20 foregoing was served upon the following counsel via the Court's electronic filing and service
21 system:

22 Ryan Kerbow, Esq.
23 Bernstein and Poisson LLP
24 320 S. Jones Boulevard
25 Las Vegas, NV 89107
26 Attorney for Plaintiff

27 /s/ Jonna Linke
28 An Employee of PERRY & WESTBROOK,
A Professional Corporation